

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WILLIAM RANDOLPH,

Plaintiff,

vs.

SHERIFF GILLESPIE, *et al.*

Defendants.

2:13-cv-00320-APG-PAL

ORDER

This *pro se* civil rights action comes before the Court on plaintiff's application (#1) to proceed *in forma pauperis* and for initial review of the complaint, as amended.

The Court will grant the pauper application out of an abundance of caution. The Court is not fully sanguine that the assertions in the CJA23 financial affidavit necessarily are any less fanciful than some of the other assertions in the papers filed with the affidavit. However, on the face of the financial assertions made, the Court will grant the application.

Plaintiff has filed an amended complaint (#6), which he may do once as a matter of course under Rule 15(a) of the Federal Rules of Civil Procedure in this procedural context. Under Local Rule LR 15-1(a), an amended complaint must be complete in itself, such that the amended complaint completely supercedes the prior pleading. Claims and defendants that are not included in the amended pleading no longer are before the Court.

The amended complaint does not state a claim upon which relief may be granted. The amended complaint only lists defendants in the caption and makes conclusory, incoherent allegations in the nature of the case section of the complaint form. The amended complaint

1 does not further identify the defendants within the pleading, contains no allegations
2 whatsoever in the counts of the amended complaint, and makes no request for relief.
3 Moreover, the defendants listed in the caption include defendants that: (a) do not constitute
4 juridical persons subject to being sued (*i.e.*, "Channel 3 News" and "Public Attorneys"); or (b)
5 are immune from suit in federal court under the Eleventh Amendment (*i.e.*, the "Justice
6 Court").¹

7 The complaint, as amended, therefore will be dismissed without prejudice, subject to
8 an opportunity to file an amended complaint correcting the deficiencies identified herein, to
9 the extent possible.

10 IT THEREFORE IS ORDERED that plaintiff's application (#1) to proceed *in forma*
11 *pauperis* is GRANTED and plaintiff is permitted to maintain this action to conclusion without
12 the necessity of prepayment of any additional fees or costs or the giving of security therefor.
13 This order granting *forma pauperis* status shall not extend to the issuance of subpoenas at
14 government expense.

15 IT FURTHER IS ORDERED that the complaint, as amended, is DISMISSED without
16 prejudice for failure to state a claim upon which relief may be granted, subject to leave to
17 amend within thirty (30) days of entry of this order to correct the deficiencies in the complaint,
18 as amended, if possible.

19 IT FURTHER IS ORDERED that, on any such amended complaint filed, plaintiff shall
20 clearly title the amended complaint as an amended complaint by placing the word
21 "AMENDED" immediately above "Civil Rights Complaint" on page 1 in the caption and shall
22 place the docket number, **2:13-cv-00320-APG-PAL**, above the word "AMENDED" in the
23 space for "Case No." Under Local Rule LR 15-1(a), any amended complaint filed must be
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25 ¹A justice court is part of the state judicial branch rather than a local or municipal court. See
26 *generally Heckman v. Dodd*, No. 2:11-cv-00480-RLH-LRL, #6, at 5 (D. Nev. May 2, 2011). As a part of the
27 judicial arm of the State, a state court may not be sued in federal court because of the state sovereign
28 immunity recognized by the Eleventh Amendment. State sovereign immunity bars suit in federal court against
a State or an arm of the State regardless of the relief sought. See, *e.g.*, *Pennhurst State School & Hospital v.*
Halderman, 465 U.S. 89, 100-01 (1984).

1 complete in itself without reference to prior filings. Thus, any allegations, parties, or requests
2 for relief from prior papers that are not carried forward in the amended complaint no longer
3 will be before the Court.

4 If an amended complaint is filed in response to this order, the Court will screen the
5 amended pleading before ordering any further action in this case.

6 If plaintiff does not timely file an amended complaint, a final judgment dismissing this
7 action will be entered without further advance notice. If the amended complaint does not
8 correct the deficiencies identified in this order and otherwise does not state a claim upon
9 which relief may be granted, a final judgment dismissing this action will be entered.

10 The Clerk shall send plaintiff a copy of both the original and amended complaints that
11 he submitted together with two copies of a § 1983 complaint form and one copy of the
12 instructions for the form.

13 DATED: May 24, 2013.

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16 ANDREW P. GORDON
17 United States District Judge
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